

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

3M INNOVATIVE PROPERTIES
COMPANY & MINNESOTA MINING
AND MANUFACTURING COMPANY,

Civil No. 01-1781 (JRT/FLN)

Plaintiffs,

ORDER

v.

AVERY-DENNISON CORPORATION,

Defendant.

Jonathan E. Singer, John C. Adkisson, and Katherine A. Moerke, **FISH & RICHARDSON P.C.**, P.A., 3300 Dain Rauscher Plaza, 60 South Sixth Street, Minneapolis, MN 55402; Juanita R. Brooks, **FISH & RICHARDSON P.C.**, 12390 El Camino Real, San Diego, CA 92130; and Kevin H. Rhodes, **3M INNOVATIVE PROPERTY COMPANY**, 3M Center, Post Office Box 33427, St. Paul, MN 55133, for plaintiffs.

David P. Pearson, **WINTHROP & WEINSTINE, P.A.**, 225 South Sixth Street, Suite 3500, Minneapolis, MN 55402; Roderick G. Dorman and Lawrence M. Hadley, **HENNIGAN, BENNETT & DORMAN LLP**, 601 South Figueroa Street, Suite 3300, Los Angeles, CA 90017; and Jay R. Campbell, **RENNER OTTO BOISSELLE & SKLAR**, 1621 Euclid Avenue, 19th Floor, Cleveland, OH 44115, for defendant.

Plaintiff 3M Innovative Properties Company (“3M”) and defendant Avery-Dennison Corporation (“Avery”) both produce, develop and market adhesive-based products for the commercial graphics industry. 3M filed suit against Avery alleging that one of Avery’s products infringes a patent held by 3M. In a memorandum opinion and order dated June 20, 2005, the Court construed the remaining disputed patent terms. Avery now requests permission to file a motion for reconsideration of a portion of the

Order and for permission to file a motion for summary judgment. Based on a careful review of the record, the parties' submissions, and the parties' arguments, the Court finds that material issues of fact remain in the case and that Avery does not present compelling issues and therefore denies both motions. *See* Fed. R. Civ. P. 56(c) (summary judgment is appropriate only where there is no genuine issue as to any material fact); D. Minn. LR 7.1(g) (a motion to reconsider is permitted only upon a showing of compelling circumstances).

This case is now ready for trial. An official trial notice will be forthcoming. For planning purposes, however, pursuant to the discussions held during the July 6, 2005 hearing before the Court, this case will be set for trial beginning Monday, December 12, 2005. A hearing to consider motions in limine and any other pretrial matters will be scheduled on Monday, November 28, 2005. Any such motions should be filed by Monday, November 14, 2005, with a response due from the opposing party by November 21, 2005. Additionally, all other pretrial submissions, including the other documents detailed in Local Rule 39.1, should be filed no later than Monday, November 28, 2005.

ORDER

Based on the foregoing, all the records, files, and proceedings herein, **IT IS HEREBY ORDERED** that defendant's requests to file a motion for reconsideration and a motion for summary judgment are **DENIED**.

DATED: July 8, 2005
at Minneapolis, Minnesota.

s/ John R. Tunheim
JOHN R. TUNHEIM
United States District Judge